

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION**

CIVIL NO. 1:08CV98

MICHAEL CARROLL QUINTOIS,

Plaintiff,

Vs.

PROPAK LOGISTICS, INC.,

Defendant.

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**MEMORANDUM AND
ORDER**

THIS MATTER is before the Court on the Magistrate Judge's Memorandum and Recommendation, filed June 20, 2008.

Pursuant to 28 U.S.C. § 636(b) and the standing Orders of Designation of this Court, United States Magistrate Judge Dennis L. Howell, was designated to consider pending motions in the captioned civil action and to submit to this Court recommendations for the disposition of these motions.

On June 20, 2008, the Magistrate Judge filed a Memorandum and Recommendation in this case containing proposed findings of fact and conclusions of law in support of a recommendation regarding Defendant's

motion to dismiss Plaintiff's Second, Third, Fourth and Fifth causes of action stated in his complaint. The parties were advised that any objections to the Magistrate Judge's findings were to be filed in writing within 10 days of service of the Recommendation; the period within which to file objections expired on July 10, 2008. No written objections to the Memorandum and Recommendation have been filed.

After a careful review of the Magistrate Judge's Recommendation, the Court finds that the proposed findings of fact are supported by the record and that the proposed conclusions of law are consistent with current case law. Accordingly, the Court hereby accepts the Magistrate Judge's Recommendations regarding the Defendant's motion to dismiss.

Defendant has also requested that its fees and costs incurred by filing the motion to dismiss and reply brief be imposed against Plaintiff's counsel due to what it characterizes as counsel's "intentional omission" of certain dates within the complaint in an effort to "mislead" the Court concerning the timeliness of certain claims therein. **See Defendant's Reply to Plaintiff's Response, filed May 27, 2008, at 8.** While the Magistrate Judge was unwilling to recommend Plaintiff's counsel be sanctioned, he did recommend that this Court require her to "associate

counsel experienced in federal practice, who is outside of her firm to appear, review, and sign off on all further pleadings in this matter.”

Memorandum and Recommendation, at 14. The Court has reviewed the complaint and Plaintiff’s responses to Defendant’s motion to dismiss and finds the recommendation to be appropriate under the circumstances and the same will be adopted by this Court. Even though Kerry Brindley Everett has filed notice of appearance in this matter as co-counsel, the Court will not remove the requirement that another attorney be associated from outside Ms. Brook’s law firm.

IT IS, THEREFORE, ORDERED that Defendant’s motion to dismiss is hereby **ALLOWED IN PART**, and Plaintiff’s Third, Fourth and Fifth causes of action are hereby **DISMISSED WITH PREJUDICE**.

IT IS FURTHER ORDERED that the Defendant’s motion to dismiss is hereby **DENIED IN PART** as to Plaintiff’s Second cause of action for a claim for Title VII retaliation, but such motion is **GRANTED** as to any other claim for retaliation recognized at law.

IT IS FURTHER ORDERED that Tamara Williams Brooks is hereby required to associate co-counsel **OUTSIDE HER LAW FIRM** and at her

own expense to appear herein, and to review and sign all further pleadings filed herein, within 30 days from service of this Order.

This matter is respectfully referred to the Magistrate Judge for entry of the pretrial order.

Signed: July 14, 2008

A handwritten signature in dark ink, appearing to read 'L. H. Thornburg', is written over a horizontal line.

Lacy H. Thornburg
United States District Judge

